

REMARKS

Applicant's representative thanks the Examiners for their time and helpful suggestions provided in the telephone interview of October 29, 2009 in which claim language was discussed to further define Applicant's invention to overcome the pending rejections.

Claims 17 to 40 are pending in this case. Applicants request that pending but withdrawn claims 24-25 now be rejoined. The claims have been amended to clarify that each of the sampling devices has a corresponding isolated chamber a specified volume into which a tissue sample can be deposited. Support for this amendment is found throughout the specification as well as the figures, e.g., at page 2, lines 5-16, of the specification. Claim 17 was also amended to required actuating at least one of the sampling devices by a deployment signal; this amendment is supported by disclosure at page 2, lines 16-32; page 4, line 30, to page 5, line 9; and page 11, lines 15-19, of the specification.

No new matter has been added by this amendment.

35 U.S.C. §112, second paragraph

Claims 17-23 and 26-40 were rejected for indefiniteness. In collaboration with the Examiner during a telephone interview on October 29, 2009, Applicants have amended the claims are recited above to address each of the Examiner's grounds of rejection. In claim 17, the claim term "millimeters" has been amended to recite "cubic millimeters" as a measure of volume. Also in claim 17, the claim was amended to clarify that the sampling devices are actuated by the deployment signal. In both claims 17 and 20, Applicants have amended the claims in accordance with the Examiner's suggestion to specify that device includes a plurality of sampling devices and a plurality of isolated chambers, each of the sampling devices comprising a corresponding one of the isolated chambers. The claims have also been amended to correct antecedent basis.

has been Applicant therefore requests withdrawal of this ground of rejection.

35 U.S.C. §103

Claims 17-19, 28, 33, and 35 were rejected for obviousness over McGuckin (US 6,280,450 B1) over Kieturakis (US 6,794,626). Claims 20, 21, 27, 34, and 36 were rejected over McGuckin in view of Hogendijk (US 6,695,787). In the telephone interview of October 29, 2009, the Examiner indicated that the clarifications and amendments discussed above distinguish the claimed invention over the cited prior art. Applicant therefore respectfully requests withdrawal of this rejection.

CONCLUSION

Applicant believes that the amended claims are in condition for allowance, which action is respectfully requested. Applicant reserves the right to prosecute claims which are equal to or broader in scope in this or future applications related to the above-identified patent application.

Should the Examiner have any questions concerning the enclosure submitted herewith, the Examiner is invited to telephone the undersigned agent of record at the number provided.

The Commissioner is hereby authorized to charge any fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311 (Reference No. 26859-002).

Respectfully submitted,



Ingrid A. Beattie, Reg. No. 42,306
Attorney(s) for Applicant
c/o MINTZ, LEVIN
Address all written correspondence to
Customer no.: 30623
Tel: (617) 542-6000
Fax: (617) 542-2241

Date: November 20, 2009

ACTIVE 4752140v.1